

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Mike K. and Judi L. Peterson
Petitioners-Appellants,

v.

Boone County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-08-0880
Parcel No. 08-8426-22-31-82-200

On December 9, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellants Mike K. and Judi L. Peterson were self-represented. The Boone County Board of Review designated County Attorney Jim Robbins as its legal representative, and he represented it at hearing. The Appeal Board having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Mike K. and Judi L. Peterson are the owners of a residential, single-family property located at 1704 12th Street, Boone, Iowa. The property is a one-story frame home, built in 1947, and has 1428 square feet of total living area. The property has a half basement with no finish. Additional features include a 1504 square-foot, four-car detached garage built in 1947; three enclosed porches (64, 110, and 324 square feet respectively); a 418 square-foot concrete patio; and an 80 square-foot concrete stoop. The site is 0.643 acres.

The Petersons protested to the Boone County Board of Review regarding the 2011 assessment of \$183,467, which was allocated as follows: \$27,930 in land value and \$155,537 in improvement value. Their claim was based on two grounds: 1) that the assessment was not equitable as compared with the assessments of other like property under Iowa Code section 441.37(1)(a); and 2) that there is

an error in the assessment under section 441.37(1)(c). The Petersons asserted errors as follows: “deck removed, bascment is partial, no tile flooring, two rooms have plaster lathe.”

The Board of Review granted the protest reducing the total assessment to \$171,873, allocated as \$27,930 in land value and \$143,943 in improvement value.

The Petersons then appealed to this Board reasserting their claims. While it would appear the Petersons’ primary claim was inequity, at hearing they asserted they had presented evidence at the Board of Review that their property was assessed for more than the value authorized by law under section 441.37(1)(b). There was no one present from the Board of Review to confirm or deny this assertion. Given their testimony and evidence in the record, we will consider both a claim of inequity in the assessment and whether the property is assessed for more than authorized by law.

On their protest form to the Board of Review, Petersons listed five properties as equity comparables and provided the following information:

	Assessed At:
Boone TIF/088426223182199 – 1804 12th	\$109,845
Boone INC/08842622318211 – 1619 12th	\$87,713
Boone TIF/088426223182051 – 1808 14th	\$101,242
Boone INC/088426201482012 – 1627 Hanley	\$60,386
Ogden INC/088427314387049 – 220 SW 7th, Ogden, IA	\$113,430

Other than the address and assessment as noted above, there are no property record cards or other information regarding these properties. We do not know if the assessed value reported by Petersons is the total value, the improvement or site value, or what year the value represents. Because of the lack of information about these properties, we give this information no consideration.

The Petersons originally provided the Board of Review a hand-written comparable sales grid with three adjusted properties. We note the grid and comparable properties were not included with the Board of Review’s certified record; however, the Petersons were unable to remember if they actually left a copy with the Board. We note it is the Board’s responsibility to maintain records of all the evidence submitted at its hearings and to provide them in the certified record.

The properties in the comparable analysis were: 1621 Greene, 1709 12th, and 1408 Garst. Adjustments were made to all three properties for differences such as site size, age, living area, and amenities.

The property located at 1621 Greene is noted as being located three-quarters of a mile from the subject and sold on March 25, 2011, for \$128,000; it had an adjusted value of \$146,035. The property located at 1709 12th is noted as being located across the street from the subject and sold on April 18, 2011, for \$153,066; it had an adjusted value of \$148,926. The property located at 1408 Garst is noted as being located one mile from the subject property and sold on November 19, 2010, for \$96,500; it had an adjusted value of \$121,050.

It is unclear how the individual adjustments were determined. Judi Peterson testified the Board of Review was also critical of the lack of explanation for the adjustments. For example, 1709 12th, which is located across the street from the subject, has a negative \$26,000 adjustment for age. It is fifty-two years newer than the subject property: It was built in 1999, and the subject property was built in 1947. A \$500 adjustment per year was applied for the difference, but there is no explanation as to how this adjustment was determined. Additionally, although this particular sale is located across the street from the subject and is a similar one-story style home, its age difference makes it not reasonably comparable. And while the remaining two properties in the grid are more similar in age and size to the subject, there is still no explanation for the individual adjustments to the properties. For these reasons, we give this sales comparison analysis minimal consideration.

At hearing, the Petersons presented four comparable properties on a spreadsheet; three of the properties were different from those they had presented to the Board of Review. Two of the properties were located in Ogden, at 601 E Walnut Street and 314 SW 4th Street. The other two properties were located in Boone, at 327 Cpl Snedden Drive and 1709 12th Street.

We previously noted that 1709 12th Street, although being located across the street from the subject property, is not comparable because of the difference in age. The Petersons assert the property

located 1709 12th Street is the “best” comparable because it clearly shows a newer property with similar amenities sold for, and is assessed for, less than their older property. But this assertion does not satisfy the requirement to support either an equity claim or a claim of over-assessment.

The property located at 601 E Walnut Street had a 2010 assessed value of \$145,701, and it sold in March 2010 for \$98,000. The Petersons note the sales ratio for this property is 1.49%. The 2011 assessment increased slightly to \$147,718. However, we also note the property had been assessed for \$145,701 since 2008. The record indicates the March 2010 transfer of this property was arm’s length, but there is no explanation for why the property sold for significantly less than the previous and current assessments.

The property located at 314 SW 4th Street sold in November 2010 for \$101,200, but the transfer was a “foreclosure and transfer in lieu of forfeiture or foreclosure.” The property located at 327 Cpl Snedden Drive sold in August 2010 for \$54,900, but it was sold by a lending institution, which acquired it “as a result of foreclosure.” We note that in arriving at market value, sale prices or property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value under Iowa Code section 441.21(1)(b). Since these two properties were not adjusted for their abnormal transfers, we do not rely on them as representing market value. Nor can they be relied on to demonstrate inequity.

The Petersons did not offer any comparison, by way of adjustments, between these four properties and the subject property to establish the market value of the subject property. The information they did present attempted to demonstrate inequity by showing the sales ratio for comparable properties was well over 100%. However, two of the sales were foreclosures; another was located in Ogden with an unexplained significant difference between its sales price and assessment; and the final sale was not comparable because of the age difference between it and the subject.

The Board of Review provided its minutes, petition to the Board of Review, the subject property record card, and a sales listing sheet for the subject property as evidence. The information

was scant and did not provide any explanation for the subject's assessment or the Board's decision to lower the original assessment.

The sales listing sheet indicates the subject property was listed for sale in July 2011 for \$197,500. The listing sheet also shows a lot size of approximately 2.03 acres, whereas the legal description on the property record card lists three full lots and part of a fourth lot totaling 0.643 acres. The Petersons testified the listing reflected additional lots they own that abut the subject property, but are not a part of this appeal. Without additional explanation, we do not find the sales listing helpful in establishing a value for the subject property.

The Board of Review did not offer any witnesses or testimony.

We note there are differences between the Beacon printouts, the property record cards, and information the Petersons testified they were provided by the assessor's office. At this Board's request, County Attorney Jim Robbins was asked to inquire with the assessor's office and provide an explanation for these differences. Robbins responded with a two-page letter and copies of property record cards for the subject property and the four properties on the Petersons' spreadsheet. It is not clear if the assessor's office was involved in the explanation. The letter attempts to explain any differences we've noted in assessed values or lot sizes, but we find it just as confusing as the original documents. Regarding the subject property, it appears the explanation hinges on whether several parcels were combined for assessment purposes. However, the date(s) these parcels may have been combined also appears inconsistent. Additionally, at one point it appears the explanation claims the Beacon site is correct, but later states the Beacon site had not been updated. Ultimately, the Petersons' appeal has brought to light significant issues of inconsistencies in the reporting of property values in the assessor's office records. The explanation letter really does not clarify why these records would be so significantly different. The frustration is compounded when the Board of Review or Assessor's office does not make itself available to the taxpayer or before this Board to provide testimony and is

further unable to explain differences in values from year to year, or property record card to public website data through a coherent written explanation.

We note it is unfair to the Petersons, and all property owners, when public data is inconsistent as it makes the process of meeting their burden of proof difficult. Nevertheless, the burden is with the Petersons to prove their claims. And, they have failed to demonstrate and support what they believe is the subject property's correct fair market value. Based on the foregoing, we find insufficient evidence has been provided to support the assertions that the subject property is either inequitably assessed or assessed for more than authorized by law. However, given the concerns with the inconsistency of the public data, it would seem prudent for the assessor's office to review this property for the next assessment.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is the ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1).

The Petersons provided four properties they considered to be equity comparables; however, there is not enough information to determine that these properties are reasonably similar to the subject property. The Petersons did not show inequity under *Maxwell* or *Eagle Foods*.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The Petersons provided a hand-written sales comparison analysis, but it is generally unexplained and at least one of the comparables is not considered to be a reasonable comparable due to significant differences in year built. The Petersons also offered a spreadsheet of four properties, their assessments, sales prices, and a sales ratio for each property. However, this information is based, in part, on abnormal sales; or in one instance the incorrect assessment year was used to determine the

ratio analysis. Additionally, this spreadsheet fails to compare the properties to the subject to determine a fair market value as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Mike K. and Judi L. Petersons property located at 1704 12th Street, Boone, Iowa, of \$171,873, as of January 1, 2011. set by the Boone County Board of Review, is affirmed.

Dated this 24 day of January, 2012.

Karen Oberman
Karen Oberman, Presiding Officer

Richard Stradley
Richard Stradley, Board Chair

Jacqueline Rypma
Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>1-24</u> , 2012	
By	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>